# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/002,584 | 01/05/1998 | THEODORE D. WUGOFSKI | 450222US1 | 7973 |

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| EXAMINER |
|---|
| BROWN, RUEBEN M |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____3____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on *Nov 25, 2002* _____ .

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) *1-6, 9-13, 15-19, 21-23, 25, 28-32, 35, 36, 39, and 44-51* _____ is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-6, 9-13, 15-19, 21-23, 25, 28-32, 35, 36, 39, and 44-51* _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some* c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1.      A request for continued examination under 37 CFR 1.114, including the fee set forth in 37

CFR 1.17(e), was filed in this application after final rejection.  Since this application is eligible for

continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been

timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR

1.114.  Applicant's submission filed on 11/25/2002 has been entered.

### *Claim Rejections - 35 USC § 103*

2.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains.  Patentability shall not be negatived by the
> manner in which the invention was made.

3.      Claims 1-6, 9-13, 15-19, 21-23, 25, 28-32, 35, 36, 39 & 45-51  are rejected under 35

U.S.C. 103(a) as being unpatentable over Matthews, (U.S. Pat # 6,025,837) in view of

Norsworthy, (U.S. Pat # 6,144,402), Ohga, (U.S. Pat # 5,465,385) and Marsh, (U.S. Pat #

6,208,799).

Considering claim 1, the amended claimed computerized method for scheduled caching of

in-band data in a channel comprising a real-time scheduling process; and a subscriber initiated

scheduling process for determining a scheduled time and channel for in-band data is met by the

combination of Matthews and Norsworthy.

As for the amended claimed real-time scheduling process and user initiated process

operable to provide an interface for the user request EPG data, Matthews teaches that a

subscriber may receive EPG data according to periodic downloads and/or *selective transmission*

*in response to a subscriber's request*, col. 9, lines 45-53.  Therefore the subscriber in Matthews is

enabled to request transmission of EPG data for various channels and programs.  However,

Matthews does not disclose that user interface further enables the user to determine a scheduled

time and channel of the EPG data.

Nevertheless, Norsworthy discloses an algorithm for a subscriber to schedule the delivery

of various kinds of informational data, (Abstract; col. 2, lines 18-33). Norsworthy teaches a

system wherein a subscriber requests types of data, such that the requested data is transmitted

over a TV network. When the subscriber makes a request, the subscriber is provided with the

channel and time information for delivery, col. 5, lines 10-16 & col. 6, lines 49-59.

It would have been obvious for one of ordinary skill in the art at the time the invention

was made, to operate Matthews in a manner wherein the user is provided with transmission

schedule information, at least in order to more efficiently utilize the bandwidth of a TV channel,

as taught by Norsworthy, (col. 2, lines 26-44).

As for the additional recitation that the in-band data is EPG data, Norsworthy does not

explicitly teach such a limitation. Nevertheless, this feature is met by the disclosure of Matthews,

col. 9, lines 48-53.

Further amended claim 1, includes the limitation of wherein the caching process is

operable for instructing the tuner circuitry to tune to the scheduled channel for receiving the EPG

data. This recitation is met by the combination of Matthews, which teaches receiving EPG data

and Norsworthy, which discloses that the scheduling data is used by the user's system to

automatically tune into the proper channel at the appropriate time, in order to receive the data

requested by the subscriber, (col. 3, lines 41-46 & col.7, lines 41-50).

Regarding the additional limitation of the scheduling process for "powering on the tuning

circuitry", Matthews and Norsworthy do not teach such a feature. Nevertheless, at the time the

invention was made, it was very well known in the art to power-on a tuner circuitry in order to

receive a requested transmission of data. In particular, Ohga, (col. 5, lines 5-10) teaches that

when a present time clock corresponds with the start time of a user desired broadcast, at that

instant the 'CPU 25 automatically turns on the power of the TV receiver 3', which reads on the

claimed "process... operable for powering on a tuner circuitry". It would have been obvious for

one of ordinary skill in the art at the time the invention was made, to modify the combination of

Matthews and Norsworthy with the well known technique of automatic power-on of a tuner, as

taught by Ohga in order for the subscriber to receive requested programming at the appropriate

time, at least for the desirable improvement of obviating the need for the subscriber to remember

the broadcast start times of desired programming and to be available to ensure that the tuner

circuitry is powered-on at such times.

Regrading the claimed feature of determining if a conflict exists, the combination of

Matthews and Norsworthy does not provide such a teaching. Nevertheless, one of ordinary skill

in the art would have been motivated to detect if there exists a scheduling conflict between

scheduled reception of events, at least in order to provide an attempt at resolution of the conflict. To that end, Marsh discloses an invention wherein the scheduled recording time of events is at least periodically updated at a user's set top terminal, (col. 5, lines 55-65; col. 6, lines 30-46). The system of Marsh compares any updated schedule time with scheduled recording events are logged in the system. If there is scheduling conflict of the time of recording of at least two events, the system warns the user in order to change the time of at least one of the events, (col. 8, lines 60-65; col. 10, lines 19-65). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Matthews and Norsworthy with the technique of detecting scheduling conflicts in recording events, at least for the desirable improvement of resolving such a conflict, as taught by Marsh.

As mentioned above, Ohga provides the teaching of an automatically powering-on tuner circuitry. Thus the combination of the above references with Marsh, provides for determining if there is exists a conflict in the scheduled power-on of circuitry, tuning to a scheduled channel at a scheduled time, i.e., the scheduled recording of a broadcast. If no scheduling conflict exists, then any particular un-conflicted event will be executed according to its schedule, whereas if an event has a conflict with at least one other event, then the user is notified in order to resolve the conflict.

Considering claim 2, the claimed feature of retrieving the scheduled time & and channel from a source reads on the combination of Matthews and Norsworthy.

Considering claims 3 & 5, the claimed feature is broad enough to read on EPG data transmitted over a conventional channel, which is at least necessarily included in Matthews.

Considering claims 4, 13, 17 & 23, in Matthews and Norsworthy, the receiver necessarily extracts requested data from any other data.

Considering claim 6, Matthews teaches that the system is also applicable for satellite communication, col. 6, lines 15-18, including digital satellite, DSS.

Considering amended claim 9, claimed method steps of a scheduling process which corresponds with subject matter mentioned above in the rejection of claim 1, are likewise rejected. Regarding the amended claimed step of a determination to receive in-band data being initiated by the user, Matthews teaches that the user is enabled to choose to receive EPG data broadcasts (col. 9, lines 48-53). The additional claimed feature of storing in-band data on mass storage is met by Matthews, which teaches that EPG data is cached at the user premise, col. 9, lines 44-48.

The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering claims 10 & 18, as for the claimed step of displaying a plurality of schedules to user for selection, Official Notice is taken that at the time the invention was made, providing a subscriber with options for transmission times for deliver of data was known in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Matthews & Norsworthy the known feature of providing subscribers with options for delivery of data, at least for the improvement of providing the customer with more flexibility.

Considering claims 11-12, 19 & 22, this feature reads on the system in Norsworthy providing the subscriber's receiving device with the channel for the transmission of the requested data.

Considering amended claim 15, claimed steps of a scheduling process which corresponds with subject matter mentioned above in the rejection of claim 9, are likewise rejected. Regarding the additional limitation of storing the recited steps on a computer readable medium having computer executable-instructions stored thereon for performing the steps, Matthews and Norsworthy are computing devices and therefore necessarily include such features.

The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering amended claim 16, the claimed elements of a digital processing system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected. The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering amended claim 21, the claimed elements of a computerized system for scheduled caching corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected. The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering amended claim 25, the claimed elements of an information handling system corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected. The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering claims 28, 35 & 39, both Matthews and Norsworthy teach receiving Internet related data.

Considering claim 29, the instant features are met by the combination of Matthews & Norsworthy.

Considering claim 30, in Norsworthy the scheduling data is transmitted over a modem, using a telephone line, whereas in Ohga (col. 1, lines 45-50 & col. 4, lines 11-15) the scheduling information is transmitted over a CATV channel.

Considering claim 31, the caching process powering on the tuner reads on the combination of Matthews, Norsworthy & Ohga, as discussed above with respect to claim 1.

Considering amended claim 32, the claimed performance of steps comprised on a computer readable medium corresponds with subject matter mentioned above in the rejection of claim 9, and are likewise rejected.

Considering amended claim 36, the claimed method for handling information comprising steps corresponds with subject matter mentioned above in the rejection of claim 1, and are likewise rejected. The additional claimed feature of performing the scheduled functions if no conflict exists, reads on the combination of Matthews, Norsworthy & Marsh.

Considering new claim 45, the claimed feature of executing multiple executions of the

caching process is broad enough to read on Matthews & Norsworthy, since the user is enabled to

choose and execute multiple broadcast programs.


Considering claims 46, 48 & 50, Norsworthy teaches requesting information from the

Wall Street Journal. Thus it would have been obvious to provide the subscriber with stock

quotes. As for claims 47, 49 & 51, it would have been obvious for one of ordinary skill in the art

at the time the invention was made, to modify the combination of Matthews & Norsworthy to

offer the subscriber with any additional types of data, at least for the benefit of providing the

subscriber with a wider range of information.


4.      Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews,

Norsworthy, Ohga & Marsh, as applied to claim 1 above, and further in view of Klosterman,

(U.S. Pat # 5,550,576).


Considering claim 44, Matthews does not teach EPG data arriving at the user's set-top

box STB, from multiple sources. Nevertheless, Klosterman discloses a technique for merging TV

schedule information received from multiple sources, at a user's location, see Abstract & col. 2,

lines 61-67 thru col. 3, lines 1-25. It would have been obvious for one of ordinary skill in the art

at the time the invention was made, to modify the combination of Matthews with the technique of

receiving and combining EPG data from multiple sources, at a user's STB for the desirable

advantage of enabling a user to more efficiently interact with multiple sources of TV

programming such as cable, satellite or antenna broadcast, and by coordinating program schedule

information for the instant multiple sources, as taught by Klosterman.

## *Response to Arguments*

5.     Applicant's arguments with respect to the claims have been considered but are moot in

view of the new ground(s) of rejection.

## *Conclusion*

6.     The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

A)     Levinson     Teaches a subscriber requesting informational data from a CATV headend,

and being provided with the time of transmission.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**Or:**

(703) 872-9314 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The

examiner can normally be reached on Monday thru Friday from 830am to 430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703)

872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Group receptionist whose telephone number is (703) 305-4700.

CHRIS GRANT
PRIMARY EXAMINER